

### **REMARKS**

In this Response, Applicants amend claims 1, 11, 21, and 22. No new matter has been added. Support for the claim amendments can be found at least at page 12, lines 23-31 of Applicants' specification and at paragraph #4 of Applicants' invention disclosure form which is attached herewith as part of a re-submitted Declaration under 37 C.F.R. § 1.131.

Claims 1, 2, 4, 6, 8-12, 14, 16, 18-23, 25, 27, and 29-33 are currently pending, of which claims 1, 11, 21, and 22 are independent. Applicants respectfully submit that all of the pending claims are in condition for allowance.

#### **I. Telephone Interview with the Examiner**

Applicants thank the Examiner for the telephone interview conducted on June 15, 2010. The interview focused on the Examiner's objection to Applicants' 37 C.F.R. § 1.131 Declaration previously filed on December 23, 2009 for allegedly being ineffective to overcome U.S. Patent No. 7,340,679 to Botscheck et al. (hereafter "Botscheck"). More specifically, the Examiner asserted that the evidence submitted in Applicants' Declaration does not sufficiently describe the previously presented claim feature of "enabling a user to perform two or more sub-tasks in ***a temporal order that is independent of a positional order*** in which the two or more sub-tasks are listed in a list." See Office Action, pages 11 and 12.

During the interview, Applicants pointed to paragraph #4 of the Enterasys Networks invention disclosure form submitted with the Declaration as sufficiently describing the above-referenced claim feature. In paragraph #4 of the invention disclosure form, Applicants' user interface is described as supporting a random user-selectable order in order to perform sub-tasks in a non-linear manner. The invention disclosure form also notes that certain sub-tasks can be skipped by the user as a result of this user-selectable non-linear manner of sub-task performance. Applicants respectfully draw the Examiner's attention to the specification and the invention disclosure form to explain that the "temporal order" claim language indicates this random, user-selectable order of performing the sub-tasks.

In response, the Examiner recommended changing the "temporal order" claim language to more closely conform to the language found in paragraph #4 of the invention disclosure form. The Examiner also indicated that an amendment to bring the claim language into conformance

with paragraph #4 of the invention disclosure form is likely to result in a favorable review of Applicants' Declaration.

## **II. Claim Amendments**

In view of the Examiner interview, Applicants amend independent claims 1, 11, 21, and 22 to expedite prosecution. The claim amendments should not be construed as acquiescence to the grounds for the Examiner's objection to Applicants' Declaration as set forth in the Office Action.

Applicants amend the claims to recite enabling a user to "perform two or more sub-tasks in a random user-selectable order that is independent of a positional order in which the two or more sub-tasks are listed in the list." No new matter has been added.

Support for the claim amendments can be found at page 12, lines 23-31 of Applicants' specification, which reads:

"In another aspect of the invention, one or more sub-tasks may be presented to the user in a predefined order, but the user can override this order by selecting one or more items from the sub-task list. Accordingly, a user who is a novice in performing the task may be guided through each sub-task, which may be desirable for a novice user, but a user experienced in performing that task may override the predefined order by selecting items from the sub-task list, which may be desirable for an experienced user. ***The user may skip one or more sub-tasks, for example, sub-tasks for which the user does not wish to change the default values. Further, the user may be able to perform sub-tasks of a task in an order deemed most efficient by the user.***" [emphasis added]

Support for the claim amendments can also be found at paragraph #4 of the invention disclosure, which reads:

"The selectable task list allows the NSWizard to be used in a ***random-access***, or non-linear, manner, allowing users to change settings in the NSWizard more rapidly than can be done in a traditional wizard.... Tasks in a task path can be skipped if default values are available and recommended, speeding navigation through the wizard." [emphasis added]

**III. Rejection of Independent Claims 1, 11, 21, and 22**

The Examiner rejects independent Claims 1, 11, 21, and 22 in the Office Action under 35 U.S.C. § 103(a) over U.S. Patent No. 7,000,187 (“Messinger”) in view of U.S. Patent No. 6,128,622 (“Bach”) and in further view of Botscheck. Applicants respectfully submit that Botscheck is antedated at least with respect to claims 1, 11, 21, and 22.

More specifically, Botscheck cites a provisional application filed April 24, 2002, which Applicants contend is the apparent effective date of Botscheck for the purpose of *ex parte* examination of the present application no. 10/717,838. Applicants respectfully submit that the subject-matter of at least claims 1, 11, 21, and 22 was conceived, reduced to practice and operated for its intended purpose prior to April 24, 2002.

In view of the present application’s claim of priority to Provisional Application No. 60/428,578, filed November 22, 2002, Botscheck qualifies as prior art under 35 U.S.C. § 102(e) only, and Applicants thus re-submit herewith the Declaration under 37 C.F.R. § 1.131 (previously submitted on December 23, 2009) for the purpose of antedating or “swearing behind” Botscheck. In view of the attached Declaration and Exhibits, Applicants respectfully submit that Botscheck should be removed as a prior art reference. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103(a) rejection of independent claims 1, 11, 21, and 22.

**IV. Rejection of Dependent Claims 2, 4, 6, 8-10, 12, 14, 16, 18-20, 23, 25, 27, and 29-33**

Regarding the dependent claims, Applicants believe that independent claims 1, 11, and 22 are patentable at least for the reasons discussed above, and Applicants note that claims 2, 4, 6, 8-10, 12, 14, 16, 18-20, 23, 25, 27 and 29-33 are each dependent from their respective one of independent claims 1, 11, and 22. Thus, Applicants respectfully submit that all of dependent claims 2, 4, 6, 8-10, 12, 14, 16, 18-20, 23, 25, 27 and 29-33 are patentable at least by virtue of their dependency upon a patentable independent claim. For at least this reason, Applicants respectfully request withdrawal of the § 103(a) rejection to dependent claims 2, 4, 6, 8-10, 12, 14, 16, 18-20, 23, 25, 27 and 29-33 and respectfully requests allowance thereof.

**CONCLUSION**

In view of the above Remarks and the attached Declaration, Applicants respectfully submit that all pending claims are in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If, however, the Examiner considers that obstacles to allowance of these claims persist, Applicants invites a telephone call to Applicants' undersigned representative.

Please charge our Deposit Account No. 50-4876 in the amount of \$1110.00 covering the fee set forth in 37 C.F.R. § 1.17(a)(3). The Examiner is authorized to charge any fees, including extra claim fees and extension of time fees, for example, charge any deficiency, and/or credit any overpayment to Deposit Account No. 50-4876 under Order No. 118156-00602.

Dated: July 16, 2010

Respectfully submitted,

Electronic Signature: /David R. Burns/

David R. Burns  
Registration No.: 46,590  
McCARTER & ENGLISH, LLP  
265 Franklin Street  
Boston, Massachusetts 02110  
(617) 227-7400  
(617) 742-4214 (Fax)  
Attorney/Agent For Applicant